



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,813	07/13/2001	Corinne Gerbig Victor	79,349-075	8555
26127	7590	11/17/2005		
DYKEMA GOSSETT PLLC 39577 WOODWARD AVENUE SUITE 300 BLOOMFIELD HILLS, MI 48304-5086			EXAMINER GILLIGAN, CHRISTOPHER L	
			ART UNIT 3626	PAPER NUMBER

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/904,813

Applicant(s)

VICTOR, CORINNE GERBIG

Examiner

Luke Gilligan

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/13/01.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 3626

Claims 1-35 have been examined.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-35 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

3. Claim 1 recites a method for delivering healthcare services by assigning a doctor to an area provide healthcare services to non-emergent patients. This step does not result in a tangible result because the mere step of assigning a doctor to an area amounts to nothing more than the manipulation of an abstract idea.

4. In addition, the Specification indicates that patients are identified as emergent or non-emergent by a "greeter" when they arrive at a healthcare facility based on the greeter's perception of the patient. Such a determination would not produce a result that is repeatable without undue experimentation since it is based on the subjective determination of the greeter (see page 10 of the Specification; note that non-emergent patients may "have emergent conditions that are not readily apparent to the greeter"). Therefore, the claim also lacks a concrete result. When taken as a whole, claim 1 fails to produce a useful, concrete, and tangible result and, therefore, is directed to non-statutory subject matter.

5. Additionally, claims to 2-35 are directed to non-statutory subject matter because they similarly fail to produce a tangible result that is repeatable without undue experimentation.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1-35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

8. Claims 1-35 require the identification of whether a patient is emergent or non-emergent. The Specification indicates that patients are identified as emergent or non-emergent by a "greeter" when they arrive at a healthcare facility based on the greeter's perception of the patient. Since the Specification indicates that this identification is based on the subjective interpretation of the greeter (see page 10 of the Specification; note that non-emergent patients may "have emergent conditions that are not readily apparent to the greeter"), the Specification fails to enable one of ordinary skill in the art make and use the claimed invention without undue experimentation.

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Claim 12 recites the phrase "receive the examination by the doctor" at lines 2-3. Claim 7, from which claim 12 depends, does not recite an examination nor a doctor, therefore, there is

Art Unit: 3626

insufficient antecedent basis for this limitation in the claim. Since claim 11 recites “a doctor to examine non-emergent patients”, for examination purposes, it will be assumed that claim 12 should depend from claim 11.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

13. Claims 1-6, 20-21, and 26-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Cummings, Jr. et al., U.S. Patent No. 6,345,260.

14. As per claim 1, Cummings teaches in a hospital emergency department having a first doctor assigned to a first area to provide healthcare services to patients, a method for delivering healthcare services comprising the step of: assigning a second doctor to a second area to provide healthcare services to non-emergent patients (see column 6, lines 61-67; the Examiner is interpreting the referring of a patient to a particular doctor at a particular location to encompass the recited assigning step).

15. As per claim 2, Cummings teaches in a facility having a first area configured to provide healthcare services to patients, a method for delivering healthcare services comprising the steps of: (a) providing a second area configured to provide healthcare services to non-emergent patients (see column 6, lines 61-67); and (b) identifying whether a patient is non-emergent (see column 6, lines 55-60).

Art Unit: 3626

16. As per claim 3, Cummings teaches the method of claim 2 as described above.

Cummings further teaches the facility is a hospital emergency department (see column 7, lines 1-5).

17. As per claim 4, Cummings teaches the method of claim 2 as described above.

Cummings further teaches the identification is performed upon the arrival of the patient at the facility (see column 6, lines 45-55, the Examiner is interpreting the coordination center to be a part of the overall facility in the context of Cummings).

18. As per claim 5, Cummings teaches the method of claim 2 as described above.

Cummings further teaches the identification is performed by a medical clinician (see column 6, lines 55-60).

19. As per claim 6, Cummings teaches the method of claim 2 as described above.

Cummings further teaches providing a doctor to examine non-emergent patients in the second area (see column 6, lines 61-67).

20. As per claim 20, Cummings teaches in a hospital emergency department having a first area configured for a doctor to provide healthcare services to patients, a method for delivering healthcare services comprising the steps of: (a) assigning a first doctor to provide healthcare services to patients in the first area (see column 7, lines 1-5); (b) providing a second area configured to provide healthcare services to non-emergent patients (see column 6, lines 61-67); (c) assigning a second doctor to provide healthcare services to patients in the second area (see column 6, lines 61-67); and (d) identifying whether a patient is non-emergent upon the arrival of the patient at the facility (see column 6, lines 45-60).

21. Claim 21 recites substantially similar additional limitations to those already addressed in claim 5 and, as such, is rejected for similar reasons as given above.

Art Unit: 3626

22. Claims 26-33 recite substantially similar limitations to those already addressed in claims 1-6 and 20 and, as such, are rejected for similar reasons as given above.

Claim Rejections - 35 USC § 103

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

24. Claims 7-12, 22-23, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cummings, Jr. et al., U.S. Patent No. 6,345,260 in view of Lubin et al., U.S. Patent No. 5,991,730.

25. As per claim 7, Cummings teaches in a facility having a first area configured to provide healthcare services to patients, a method for delivering healthcare services comprising the steps of: (a) providing a second area configured to provide healthcare services to non-emergent patients (see column 6, lines 61-67); and (b) identifying whether a patient is non-emergent (see column 6, lines 55-60). Cummings does not explicitly teach recording the time a patient arrives at the facility to receive healthcare services. Lubin teaches recording the time a patient arrives at a facility to receive healthcare services (see column 3, lines 17-20). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the system of Cummings. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of reducing patient wait times by prioritizing patient service access (see column 4, line 65 – column 5, line 2 of Lubin).

26. Claims 8-11 recite substantially similar additional limitations to those already addressed in claims 3-6 and, as such, are further rejected as taught by Cummings as described above.

Art Unit: 3626

27. As per claim 12, Cummings in view of Lubin teach the method of claim 11 as described above. Cummings does not explicitly teach queuing non-emergent patients to receive the examination by the doctor by time of arrival. Lubin further teaches queuing non-emergent patients to receive the examination by the doctor by time of arrival (see column 4, line 65 – column 5, line 2 of Lubin). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the system of Cummings for the reasons given above with respect to claim 7.

28. Claims 22-23 recite substantially similar additional limitations to those already addressed in claims 7 and 12 and, as such, are rejected for similar reasons as given above.

29. Claim 34 recites substantially similar additional limitations to those already addressed in claim 12 and, as such, is rejected for similar reasons as given above.

30. Claims 13-19, 24-25, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cummings, Jr. et al., U.S. Patent No. 6,345,260 in view of Lubin et al., U.S. Patent No. 5,991,730 and further in view of Lesaint et al., U.S. Patent No. 6,578,005.

31. As per claim 13, Cummings teaches in a facility having a first area configured to provide healthcare services to patients, a method for delivering healthcare services comprising the steps of: (a) providing a second area configured to provide healthcare services to non-emergent patients (see column 6, lines 61-67); and (b) identifying whether a patient is non-emergent (see column 6, lines 55-60). Cummings does not explicitly teach recording the time a patient arrives at the facility to receive healthcare services. Lubin teaches recording the time a patient arrives at a facility to receive healthcare services (see column 3, lines 17-20). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the system of Cummings. One of ordinary skill in the art would have been motivated to

Art Unit: 3626

incorporate this feature for the purpose of reducing patient wait times by prioritizing patient service access (see column 4, line 65 – column 5, line 2 of Lubin).

32. In addition, neither Cummings nor Lubin teach providing the patient a form of compensation when the patient first receives healthcare services more than a predetermined time after the patient's arrival. Lesaint teaches a step of providing customers with compensation if a guaranteed response time is exceeded (see column 17, lines 54-61). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this guarantee with respect to providing a guaranteed response time to patients. One of ordinary skill in the art would have been motivated to incorporate such a guarantee for the purpose of increasing patient satisfaction by avoiding the aggravations of waiting rooms (see column 3, lines 35-42 of Cummings).

33. Claims 14-18 contain substantially similar additional limitations to those already addressed in claims 8-12 and, as such, are rejected for similar reasons as given above.

34. As per claim 19, Cummings does not explicitly teach the feature of providing compensation as described above. However, Lesaint teaches a step of providing customers with compensation if a guaranteed response time is exceeded (see column 17, lines 54-61). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this guarantee with respect to providing a guaranteed response time for examination of patients. One of ordinary skill in the art would have been motivated to incorporate such a guarantee for the purpose of increasing patient satisfaction by avoiding the aggravations of waiting rooms (see column 3, lines 35-42 of Cummings).

35. Claims 24-25 recite substantially similar additional limitations to those already addressed in claims 13 and 19 and, as such, are rejected for similar reasons as given above.

Art Unit: 3626

36. Claim 35 recites substantially similar additional limitations to those already addressed in claim 13, and, as such, is rejected for similar reasons as given above.

Conclusion

37. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luke Gilligan whose telephone number is (571) 272-6770. The examiner can normally be reached on Monday-Friday 8am-5:30pm.

38. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

39. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

11/14/05


C. Luke Gilligan
Patent Examiner
Art Unit 3626